

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRIAN K. CARMICHAEL,

Defendant.

**8:08CR212**

**ORDER**

This matter is before the court on its own motion. It appears the defendant may be eligible for a sentence reduction under Amendment 782 to the United States Sentencing Guidelines.

Amendment 782 (sometimes called the “drugs minus two” or the “2014 drug guidelines amendment”) reduces offense levels assigned in the Drug Quantity Table by two levels, resulting in lower guideline ranges for many drug trafficking offenses. See [Federal Register Notice of Final Action Regarding Amendment to Policy Statement §1B1.10, Effective November 1, 2014](#), 79 Fed. Reg. 25996 (May 6, 2014); *available at* [www.ussc.gov](http://www.ussc.gov). <http://www.ussc.gov/amendment-process/federal-register-notice>. The proposed amendment went into effect on November 1, 2014. *Id.* The Sentencing Commission has given retroactive effect to the amendment. *Id.* at 1. Accordingly, beginning November 1, 2014, eligible incarcerated offenders may move for reductions in their sentences, however, offenders whose requests are granted by the courts may not be released from prison any earlier than November 1, 2015. *Id.* at 2.

Under General Order 2014-09, “*In The Matter Of Cases Assigned to Chief Judge Laurie Smith Camp, Judge Joseph F. Bataillon, Judge John M. Gerrard, and Judge Lyle*

*E. Strom involving a Potential Reduction In Sentence Pursuant to Amendment 782*, (Oct. 2, 2014), available at <http://www.ned.uscourts.gov/content/general-order-2014-09>, the Federal Public Defender for the District of Nebraska, or his delegates under the Criminal Justice Act, have been appointed to represent the defendants with respect to these motions. Filing No. 37.

The court is advised that the United States Attorney, the Federal Public Defender (or his delegate) and the United States Probation Office have agreed to a case processing protocol whereby defendants eligible for release under Amendment 782 will be processed in the order of their potential release dates. Accordingly,

IT IS ORDERED that:

1. The Federal Public Defender or one of his delegates under the Criminal Justice Act is appointed to represent the defendant.
2. The progression of this case is held in abeyance until the Federal Public Defender or his delegate files a motion stating that the matter is ready for progression.
3. The Clerk of Court is directed to provide the Federal Public Defender, the United States Attorney, and the Supervisory United States Probation Officer with notice of this order.
4. Appointed counsel shall promptly enter an appearance.

DATED this 21st day of September, 2015.

BY THE COURT:

s/ Joseph F. Bataillon  
Senior United States District Judge